

## AN ORDINANCE **98639**

### **ADOPTING VARIOUS AMENDMENTS AND REVISIONS TO THE LOBBYING PROVISIONS OF THE CITY OF SAN ANTONIO ETHICS CODE AS PROPOSED BY THE MAYOR'S COMMITTEE ON INTEGRITY AND TRUST IN LOCAL GOVERNMENT AND THE CITY OF SAN ANTONIO ETHICS REVIEW BOARD.**

(Amends Ordinance No. 88874, November 19, 1998)

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**WHEREAS**, the City Council passed and approved Ordinance Number 88874 on November 19, 1998, adopting a new Code of Ethics establishing standards of conduct for present and former city officials and employees, persons doing business with the City, and lobbyists;

**WHEREAS**, the City Council amended Ordinance No. 88874 by passing and approving Ordinance 90313 on August 19, 1999; and

**WHEREAS**, the City Council again amended Ordinance No. 88874 by passing and approving Ordinance 93998, on May 24, 2001; and

**WHEREAS**, on October 23, 2003, Mayor Edward D. Garza appointed the Mayor's Committee on Integrity and Trust in Local Government to review and make recommendations to strengthen the City's Ethics Code; and

**WHEREAS**, on January 29, 2003, the Mayor's Committee on Integrity and Trust in Local Government issued a report setting forth its recommendations regarding the City's Ethics Code;

**WHEREAS**, on May 29, 2003, the City Council passed and approved Ordinance No. 97711 to amend Ordinance No. 88874, to adopt several revisions proposed by the Mayor's Integrity Committee and the City's Ethics Review Board;

**WHEREAS**, the City Council has now further reviewed the recommendations of the Mayor's Integrity Committee and the Ethics Review Board regarding their proposed revisions to the lobbying regulations of the Ethics Code; **NOW THEREFORE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** By this Ordinance, the City Council amends the City's Ethics Code as follows:

**SECTION 2.** Part E, Section 1(j) of the Ethics Code is amended as follows:

***Municipal question*** means a public policy issue of a discretionary nature pending or impending before city council or any board or commission, including, but not limited to, proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts.  
**{paragraph break added}**

The term "municipal question" does not include the day-to-day application, administration, or execution of existing city programs, ~~and policies, ordinances, resolutions, or practices, including matters that may be approved administratively without consideration by a board, a commission, or the City Council. such as permitting, platting, and zoning matters (other than the amendment, modification or revision of the City of San Antonio Unified Development Code).~~ The term "municipal question" does include all discretionary matters before the Board of Adjustment, the Planning Commission and the Zoning Commission and all advisory committees and subcommittees thereof.

**SECTION 3.** Part E, Section 1(c) is amended as follows:

***Compensation*** means money or any other thing of value that is received, or is to be received, in return for or in connection with lobbying services rendered, or to be rendered, including reimbursement of expenses incurred in lobbying. "Compensation" for professional services that do not primarily require contact or advocacy with public officials does not constitute "compensation in connection with lobbying services" for purposes of this section, if contact with public officials is incidental to the primary purpose of the employment.

Compensation does not include a payment made to any individual regularly employed by a person if **{block paragraph added}**

- (1) the payment ordinarily would be made regardless of whether the individual engaged in lobbying activities; and
- (2) lobbying activities are not part of the individual's regular responsibilities to the person making the payment.

Compensation does not include the financial gain that a person may realize as a result of the determination of a municipal question, unless that gain is in the form of a contingent fee. {paragraph break added}

If a lobbyist engages in both lobbying activities and other activities on behalf of a person, compensation for lobbying includes all amounts received from that person, if, for the purpose of evading the obligations imposed under Part E (Lobbyists), the lobbyist has structured the receipt of compensation in a way that unreasonably minimizes the value of the lobbying activities. {paragraph break added}

Compensation which has not yet been received is considered to be received on the date that it is earned, if that date is ascertainable; otherwise, it is received on the date on which the contract or agreement for compensation is made, or on the date lobbying commences, whichever is first. Compensation does not include any amounts previously reported under Section 5 of Part E (Activity Reports).

**SECTION 4.** Part E, Section 1(d) is amended as follows:

***Expenditure*** means a payment, distribution, loan, advance, reimbursement, deposit, or gift of money or anything of value, including a contract, promise, or agreement to make an expenditure, regardless of whether such contract, promise, or agreement is legally enforceable.

Expenditure does not include an amount paid to any individual regularly employed by a person if (1) the amounts paid to the individual are ordinarily paid regardless of whether the individual engages in lobbying activities and (2) lobbying activities are not part of the individual's regular responsibilities to the person making the payment. The date on which an expenditure is incurred is determined according to generally accepted accounting principles. {paragraph break added}

The term "expenditure" does not include the cost of photocopying city documents, if those costs are the only expenditures made by the person in question on lobbying activities. The term "expenditure" also does not include the cost of photocopying documents, or creating other informational material by individuals who communicate with public officials to express personal opinions on behalf of themselves, their family or members of their household.

**SECTION 5.** Part E, Section 3(h), regarding exceptions from lobbyist registration requirement, is amended as follows:

**SECTION 3 EXCEPTIONS**

The following persons are not required to register under Section 4 of Part E (Registration) or file an activity report under Section 5 of Part E (Activity Reports):

**(h) Individual.** An individual who engages in lobbying but who neither receives compensation nor expends monies for lobbying with respect to any client. The term "expends" does not include the cost of photocopying documents, or creating other informational material by individuals who communicate with public officials to express personal opinions on behalf of themselves, their family or members of their household.

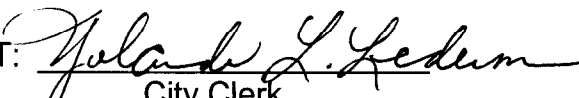
**SECTION 6.** This ordinance shall be effective as of \_\_\_\_\_. The changes in the Ethics Code reflected in this ordinance apply only to events taking place on or after the effective date of this ordinance. Any events occurring before the effective date of this ordinance are governed by the Ethics Code in effect on that date of that event. The prior versions of the Code are continued in effect for that purpose.


PASSED AND APPROVED this 18<sup>th</sup> day of December, 2003.



MAYOR  
Edward D. Garza

**EDWARD D. GARZA**

ATTEST:   
City Clerk

APPROVED AS TO FORM:   
Andrew Martin  
City Attorney